

APPROVED: Meeting No. 38-90

ATTEST: *Shain L. Sun*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
Meeting No. 34-90

September 10, 1990

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, Maryland Avenue at Vinson Street, Rockville, Maryland, on September 10, 1990, at 7:30 p.m.

PRESENT

Mayor Douglas M. Duncan

Councilmember James F. Coyle

Councilmember Viola D. Hovsepien

Councilmember James T. Marrinan

Councilmember David Robbins

In attendance: City Manager Bruce Romer, City Clerk Sharon Gran and City Attorney Paul Glasgow.

Re: City Manager's Report

1. At 5:00 p.m. this evening, the Mayor and Council participated in a housewarming ceremony for a new affordable home on Frederick Avenue in the Lincoln Park community. This home was the result of a public/private partnership which included the Montgomery County Association of Realtors, Habitat for Humanity, Suburban Maryland Homeowners Association and the Mayor and Council.

2. On September 18, another public information meeting will be held regarding the Ritchie Parkway wetlands issue. A new staff report was recently issued and forwarded to all interested citizens.

3. There is a change in Item L of the Consent Agenda. Regarding the General Fund monthly report for July 1990, the percentage of real property taxes collected should read .645% of budget realized to date rather than 64.5%.

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4. This past Saturday, another very successful Volunteer Appreciation Party was hosted by the Mayor and Council.

Mayor Duncan thanked staff for their efforts in connection with the Volunteer Party. He also requested that congratulations be passed on to C.W. Thomas of the City's Department of Public Works for his son, Gene's, achievements as a member of the University of Maryland football team. He has scored the winning touchdowns in the last two games.

Re: Recognition of Harrison Le, student at Richard Montgomery High School, second place winner in the 1990 Student Essay Competition, "Medical Ethics: Dilemmas and Decisions Facing Society."

Harrison Le was presented with a certificate by the Mayor and Council for placing second in the 1990 Student Essay Competition, "Medical Ethics: Dilemmas and Decisions Facing Society."

Re: Recognition of Tracy Silverman and Kenny Brown, the two Rockville students chosen to participate in the Teams USA 1990 European soccer tour.

Tracy Silverman and Kenny Brown were presented with certificates in recognition of their selection and participation in the 1990 Teams USA 1990 European Soccer Tour.

Re: Presentation of awards to the following financial sponsors of the Rockville Rotary Twilight Runfest held on July 21, 1990:

The following organizations were presented with plaques in appreciation of their financial contributions to the Rockville Rotary Twilight Runfest held on July 21, 1990:

Albee Shoes
Cable TV Montgomery

Anheuser Busch
Chestnut Lodge Hospital

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General Electric	Giant
Kashi	Kimmel Properties
Maryland National Bank	M.D. IPA
New Balance	Pettit and Griffin, Inc.
Rockville Gazette	Rockville Instant Printing
Rockville Metro Center	Rotary Club of Rockville
Shady Grove Adventist Hospital	United Artists Theatres
VIP Travel Agency	
Great American Restaurants, Inc. (Fritzbe's 10K)	
Institute for Technical Education - Montgomery College	

Stan Doore, President of the Rockville Rotary Club, presented the Mayor and Council with a check in the amount of \$12,000 for the Rockville Youth Scholarship Fund. Also from the proceeds of the Runfest, the Rockville Rotary Club is contributing \$10,000 to the Rotary International Polio Campaign.

Carole Rivera and Dennis Steinauer of the Montgomery County Roadrunners Club, expressed their appreciation to the Mayor and Council, John Freeland and Recreation and Parks staff members Greg Bayor, Burt Hall and Lisa Splaine, and presented sweatshirts commemorating the event.

The Mayor and Council expressed their gratitude to all of those contributing to the success of the Runfest, in particular, John Freeland, past president of the Rockville Rotary Club, and the many volunteers.

Re: Citizens' Forum

At this time, the Mayor opened the meeting to hear from any citizen who wished to address the Mayor and Council.

1. Jack Baur, 537 Anderson Avenue, advised the Mayor and Council that in connection with the widening of Route 28, PEPCO has informed Chestnut Lodge that they would be taking down two large oak trees. Mr. Baur provided photographs of the trees and urged the Mayor and Council to take appropriate action to preserve the trees.

Mayor Duncan noted that they would look into the matter.

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2. David Melnick, 518 New Mark Esplanade, as President of New Mark Commons Homes Association, referenced Item #11 on the agenda, applicability of Chapter 10B, Common Ownership Communities, of the Montgomery County Code in the City of Rockville. He suggested that the City wait until the County law has been in effect for a time to see how it is working before enacting similar legislation in Rockville.

Mayor Duncan advised that the City would hold a public hearing on this matter prior to enacting any legislation.

3. Melvin Hall, 210 Elizabeth Avenue, noted that the Community Action Team of Rockville would be sponsoring a spaghetti dinner on Saturday, September 15, to honor those instrumental in helping the Community Action Team to achieve its goal of a drug-free community. Everyone was invited to attend.

4. Mike Gewirtz, 1520 Columbia Avenue, voiced opposition to the adoption of an accessory apartment ordinance, noting that he supports the MPDU ordinance and the addition of more affordable housing in the City.

5. Mansfield Kaseman, 704 Carter Road, expressed appreciation to the Mayor and Council for their leadership and to City staff members Doug Horne and Ed Duffy for their efforts in connection with the affordable home project in Lincoln Park.

There being no other citizens wishing to be heard, the Mayor closed the Citizens' Forum portion of the meeting.

Re: Appointments

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Patricia Woodward was appointed to a three-year term on the Heritage Park Cooperative Board of Directors.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Olive Schwalm was reappointed to a three-year term on the Rockville Scholarship Foundation Board of Directors.

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Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Tom Maddox was appointed to a one-year term as Chairperson of the Traffic and Transportation Commission.

Re: Approval of Minutes

Upon motion of Councilmember Hovsepian, duly seconded, with Councilmember Robbins abstaining, the minutes of Meeting No. 33-90 (August 6, 1990) were approved, as written.

Re: Consent Agenda

Mayor Duncan requested that Items A and F be removed, Councilmember Coyle requested that Items G and M be removed and Councilmember Robbins requested the removal of Item N. Upon motion of Councilmember Robbins, duly seconded and unanimously passed, the following Consent Agenda Items were approved:

- B. Award of piggyback contract for office furniture and partition walls in the amount of \$45,694 to the low bidder, Systems Furniture Gallery, under Fairfax County Government Furniture, Office & Related Products Contract #RQ80000313-0. The budget amount is \$135,000.

The award includes the purchase of furniture and partition walls to modify existing City space and house additional staff.

- C. Award of Bid No. 16A-91 to sole bidder, Hawkins Electric Company, College Park, Maryland, in the amount of \$57,440. The bid is within budget.

This is the City's annual traffic signal maintenance contract which may be extended for an additional year. The contract would be funded primarily from the Traffic Signal Maintenance annual budget plus four capital projects: Maryland Avenue Traffic Control, W. Montgomery Avenue

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Reconstruction, Ritchie Parkway-Seven Locks to Rockville Pike and Route 355/28 intersection.

- D. Award of Council of Governments annual cooperative bid for Rockville for 40,000 gallons of #2 heating oil to Budget Oil Corporation, Accokeek, Maryland, for tank wagon delivery at \$0.5370 per gallon for 11,000 gallons and to Louis Dreyfus Energy Corporation, Bel Air, Maryland, for truck transport delivery at \$0.5095 per gallon for 29,000 gallons, for a total of \$20,682.50. The budget amount was \$25,000.

Each year, the City buys its #2 heating oil through the Council of Governments cooperative bidding process.

- E. Award of Bid No. 16-91, Uninterruptible Power Supply (UPS) to Enterprise Electric in the amount of \$41,328. Enterprise Electric was the second-lowest bidder. The low bidder, International Power Machines, did not conform to the specification which called for an upgradable UPS unit.

This contract provides emergency power backup and power conditioning for the City's central computers. Funding is included in the \$211,000 budgeted for capital acquisitions in the FY91 Data Processing budget.

- H. Approval of "Offer of Agreement" contract with Fall Line Company.

The staff has negotiated this agreement for the acquisition of right-of-way needed for the improvement of West Montgomery Avenue. The parcel is 193 square feet and the purchase price is \$1,600.00.

- I. Approval of "Offer of Agreement" contracts for sale of excess City

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property located on Coral Sea Drive.

The City has received separate requests from Rose M. Fyock and Patricia A. Stewart to purchase portions of a City-owned "outlot" adjacent to their homes as follows:

Rose M. Fyock-629.7 sq. ft.-
\$475

Patricia A. Stewart- 2175.6 sq. ft.-
\$1,630

- J. Introduction of Ordinance to allow minor modifications to existing parking permit areas to be made by the City Manager.

The proposed ordinance provides for administrative approval of modifications to existing parking permit areas involving fifteen or fewer households as opposed to the current provision of six or fewer households.

- K. Preliminary Review - Text Amendment Application T-113-90, Rockville Planning Commission, Applicant.

Amendment to Zoning Ordinance definition of "gross floor area of building" to clarify this term.

- L. Submission of financial reports summarizing the results of City operations for July 1990.

Re: Approval of waiver for on-site Storm Water Management for the storage facility at 14466 Rothgeb Drive (Redgate Golf Course) in the Rock Creek drainage area, and acceptance of a \$3,600 contribution for the off-site SWM fund.

Owner/developer, City of Rockville Department of Recreation and Parks, plans to construct a storage facility.

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Mayor Duncan noted concerns with accepting contributions for off-site storm water management, many of which are future facilities, given the wetlands issue and the proposed lake. He requested that this item (Consent Agenda Item A) be deferred until staff can provide an analysis as to how the City could provide on-site storm water management as opposed to accepting contributions to a fund, what it would cost, etc. Councilmember Hovsepian asked that additional information be provided as to where the runoff is eventually going.

Re: Approval of agreement and contract with Asplundh Tree Expert Company for maintenance of City street lights.

This multi-year agreement would take advantage of our cooperative procurement procedures, piggybacking onto Montgomery County Contract #05730. The agreement would extend through May 17, 1994, the same expiration date as the County contract. A maximum of \$250,000 would be expended over the agreement period of nearly four years, averaging slightly over \$60,000 in each fiscal year and within our present budget.

Regarding Item F on the Consent Agenda, Mayor Duncan asked for a comparison of the costs of the proposed contract with what the City had previously been spending under the old contract. It was agreed that this item would be brought back on the agenda for the September 24 meeting with the additional information.

Re: Rejection of Bid No. 15-91, Isreal Park Iron Fencing. The low bid from Frederick Fence Co. was \$81,298; the FY91 CIP budgeted amount is \$57,000.

This project would complete the ornamental iron fencing

around Isreal Park (1,520 feet of new fence). It is recommended that all bids be rejected and the project re-bid in a more favorable market.

Regarding Consent Agenda Item G, Councilmember Coyle asked why the bids were so far beyond the estimate and what impact this delay may have on the drug prevention program. Staff responded that the estimated price was based upon the cost of the existing fence plus an inflation factor. Inasmuch as the existing fence meets the current objective, the delay was not seen as having an impact on drug deterrent efforts. Councilmember Coyle suggested keeping in touch with the local civic association and the Community Action Team regarding this matter and Mayor Duncan noted that their input regarding the urgency or need for the fence should be sought.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Bid No. 15-91 was rejected with the project to be re-bid at a later time.

Re: Approval of legal plan document for City's Section 125 premium conversion plan.

IRS regulations mandate the development of a formal plan document for any salary reduction program. The City's benefits consultants, A. Foster Higgins, have written the plan, retroactive to January 1, 1989, to satisfy IRS mandates.

As to Consent Agenda Item M, Councilmember Coyle asked if this is a one-time activity or an annual procedure given the length of the document. Staff responded that the agreement is primarily boiler plate language used by the benefits consultant. Councilmember Marrinan was advised that the cost of approximately \$5,000 also includes two plans requested by the employee groups regarding salary reductions for day care and out-of-pocket medical insurance.

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Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Mayor and Council approved the legal plan document for the City's Section 125 premium conversion plan.

Re: Authorization of a temporary advance of up to \$200,000 to Rockville Arts Place, Inc., contingent upon formal State approval of a grant application, in order to facilitate timely completion of Phase I construction of the Rockville Arts Place facility. The ultimate financial impact to the City will be the loss of a few month's interest revenue on the monies advanced.

Regarding Consent Agenda Item N, Councilmember Robbins was advised that there is a 99% probability that Rockville Arts Place will receive the funds from the State and that the grant would only be turned down if RAP's course of action violated the State's intent.

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, authorization was provided for the City to advance up to \$200,000 to Rockville Arts Place upon formal State approval of their application.

Re: Review and approval of proposed operating procedures for Middle Lane parking lot.

The City Manager noted that the report provided in the brief book sets forth a recommended course of action for the City to follow in assuming responsibility for the operation of the Middle Lane parking lot. It is recommended that 150 spaces be designated for full-time parking which would include the 25 spaces reserved for parking of City vehicles; the remainder of the spaces would be part-time (free four-hour) parking. Monthly permits would still be offered at \$25 per month using coupons similar to the current system. The City plans to launch an exhaustive informational campaign

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to ensure that the current permit parking users and shoppers are aware of the new operation. Annual operating expenses are projected at approximately \$29,000, with revenues of approximately \$36,000.

The City Police Department will enforce the four-hour parking. It was emphasized that the intent was not to cut the current number of permit parking spaces (125); however, the demand for four-hour parking would be assessed and, if warranted, permit parking could be reduced through attrition. Mayor Duncan noted the importance of providing enough parking for shoppers to resolve the problem of towing from other commercial lots such as Pier 1.

Mayor Duncan requested that the outline map on the sign at the entrance to the lot include some of the major destinations of visitors, i.e., movie theatres, Hagan's Four Courts, etc.

Councilmember Marrinan questioned how commuters who travel overnight would be handled. The City Manager responded that experience as to the frequency of these occurrences is needed and staff would try to assess this situation through contact with the new permit holders.

Allowing permit parking only until 6:00 p.m. would allow more free parking for residents in the evening. It was determined that permit parking hours would be from approximately 6:00 a.m. to 6:00 p.m., free four-hour parking from 6:00 a.m. to 6:00 p.m., unlimited parking from 6:00 p.m. to 2:00 a.m. and no parking from 2:30 a.m. to 6:00 a.m.

Mayor Duncan asked that staff come back in three months to review this program to assess whether changes in policy are required. Staff was requested to move forward quickly.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the procedures for operation of the Middle Lane parking lot were approved with the changes noted above.

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Re: Discussion and instructions
to staff regarding
applicability of Chapter 10B,
Common Ownership Communities,
of the Montgomery County Code
in the City of Rockville.

Councilmember Hovsepian noted that the City needs to hear from the common ownership communities in Rockville as to their desires in this matter. It was agreed that the City Attorney would draft an ordinance to permit the County law to apply within the City, and such ordinance would be the subject of a public hearing. A copy of the proposed ordinance would be sent to the affected associations in the City for their review.

Re: Introduction and Adoption of
Ordinance to grant Text
Amendment Application T-108-
90, Mayor and Council of
Rockville, Applicant.

Ordinance No. 24-90

This amendment provides for accessory apartments by special exception in one-family detached residential zones. The ordinance was duly introduced by Councilmember Hovsepian. Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, the layover requirements were waived. Upon motion of Councilmember Robbins, duly seconded and unanimously passed, Ordinance No. 24-90, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted to grant Text Amendment Application T-108-90, providing for accessory apartments by special exception in one-family detached residential zones.

Re: Adoption of Ordinance to amend
Chapter 18 of the Rockville
City Code, entitled "Rental
Facilities."

Ordinance No. 25-90

This ordinance amends various definitions, provides for an accessory apartment

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rental unit license and establishes minimum facilities requirements for accessory apartments. Upon motion of Councilmember Robbins, duly seconded and unanimously passed, Ordinance No. 25-90, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted to amend Chapter 18 of the Rockville City Code in connection with the provision of accessory apartments.

Re: Adoption of Ordinance to amend Chapter 5, Article XII of the Rockville City Code, entitled "Property Maintenance Code."

Ordinance No. 26-90

This amendment provides for inspection and regulation of accessory apartments and adds various definitions to the ordinance. Upon motion of Councilmember Hovsepien, duly seconded and unanimously passed, the ordinance was amended to provide for annual inspections of accessory apartment units. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Ordinance No. 26-90, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted, as amended, to provide for inspection and regulation of accessory apartments.

Re: Adoption of Ordinance to amend Chapter 1 of the Rockville City Code so as to permit Montgomery County Chapter 11A, entitled "Condominiums," Chapter 11C, entitled "Cooperative Housing" and Chapter 53A, entitled "Tenant Displacement" to apply within the City of Rockville.

Ordinance No. 27-90

Upon motion of Councilmember Hovsepien, duly seconded and unanimously passed, Ordinance No. 27-90, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted to permit Chapters 11A, 11C and 53A of the Montgomery County Code to apply within the City of Rockville.

Re: Introduction and Adoption of

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Ordinance to grant Text
Amendment Application T-109-
90, Mayor and Council of
Rockville, Applicant.

Ordinance No. 28-90

Councilmember Coyle noted his disagreement with statements made earlier during Citizens' Forum and indicated that the City has acted very responsibly in enacting moderately priced housing legislation. Mayor Duncan commented that the City is pleased to be passing this legislation and noted other actions the City has taken to provide affordable housing such as enacting legislation to allow personal living quarters and participation in the successful partnership leading to the affordable home in Lincoln Park (Lee house).

The ordinance was duly introduced by Councilmember Hovsepien. Upon motion of Councilmember Hovsepien, duly seconded and unanimously passed, the layover requirements for this ordinance were waived. Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Ordinance No. 28-90, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted to grant Text Amendment Application T-109-90, amending various sections of the Zoning Ordinance to accommodate the provisions of the Moderately Priced Housing Ordinance.

Re: Adoption of Chapter 13A,
Rockville City Code, entitled
"Moderately Priced Housing."

Ordinance No. 29-90

Mayor Duncan thanked City staff members Ed Duffy and Doug Horne for their efforts in facilitating this legislation. Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Ordinance No. 29-90, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted to require that all subdivisions of 50 or more units include a minimum number of moderately priced units and to encourage construction of moderately priced housing by allowing optional increases

in density.

Re: Discussion and instructions
to staff regarding the use of
alcohol in public facilities.

The City Manager advised that under the current policy in existence for a number of years, only one problem has been identified which was dealt with responsibly. In response to a request from the Mayor and Council, the Recreation and Park Advisory Board reviewed the policy and submitted recommendations for use of alcohol at City facilities. In response to Councilmember Robbins, staff indicated that the Civic Center supervisor approves alcohol permits for the Civic Center and parks, the Senior Center supervisor approves permits for that facility and the permits for Lincoln Park Community Center and special events are generally approved by the Director of Recreation and Parks. It was also noted that alcohol is permitted in only nine of the City's 44 parks.

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, the recommendations of the Recreation and Park Advisory Board for use of alcohol at City facilities and functions was approved.

Re: FYI/Correspondence

Regarding the Maryland Avenue/Falls Road/Potomac Valley Road interchange, Councilmember Coyle stated that he had attended a meeting of citizens in the area at which concerns to be addressed by the State were identified. He noted that the City has acted very responsibly and should continue to monitor County and State progress. The State may subsequently be requested to reconsider the crossover for pedestrian traffic.

Mayor Duncan commented that with respect to the extension of Ritchie Parkway, the first stage of construction will not affect the wetlands.

Councilmember Coyle noted that the issue of the alley between W. Montgomery and Anderson Avenues and Laird and Mannakee Streets had come up a couple of years ago and that the long-term solution may be abandonment. The City Manager responded that it

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has always been the position of the City that they would be willing to receive such a petition but none has been forthcoming. The City Manager also indicated that he has prepared a response regarding this issue.

Re: New Business

Councilmember Hovsepien inquired as to whether a public event was still being planned in connection with the demolition of the old outdoor pool at the Swim Center. The City Manager responded that he is trying to find a date acceptable to all.

In connection with his membership on NLC's Human Development Steering Committee, Councilmember Coyle commented that a national health policy is being drafted. As many as 31-60 million employees are not covered by health insurance and he urged the City to investigate the possibility of requiring contractors to provide health insurance for their employees. The City Manager noted that this concern may subsequently be resolved at the State level.

Following the Volunteer Appreciation Party the previous weekend, Councilmember Coyle commented that this may be an appropriate time to revisit the issue of the City having a Volunteer Coordinator to seek out those individuals who wish to volunteer. Mayor Duncan responded that this would be an issue for the retreat. Councilmember Marrinan stated that a number of seniors had expressed concern regarding the time of the party and had asked that it be moved up for future years.

Councilmember Marrinan advised that he and Councilmember Coyle had received a number of calls regarding two serious accidents on Watts Branch Parkway and the continuing concern of excessive speed on the road. Mayor Duncan requested that staff provide a status report on how the Watts Branch Advisory Committee is progressing.

Regrading the Oktoberfest scheduled for September 22 and 23, Mayor Duncan stated that the craft show would be better than ever. He also noted the new Pinneberg flag displayed in the Council Chamber.

Mayor Duncan urged all residents to vote in the primary election tomorrow.

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Re: Executive Session

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the Mayor and Council convened in executive session at 9:30 p.m. to consult with legal counsel and to discuss personnel and property matters.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 11:45 p.m., to convene again in Public Hearing at 7:30 p.m. on September 17, 1990, or at the call of the Mayor.